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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. WILLIAM DALE NEWHOFF, JR., Defendant.	CR 08-41-M-DWM <u>OFFER OF PROOF</u>
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As counsel for the United States will be out of the office and unavailable from October 21-31, this offer of proof is being filed in case the defendant signs the proposed plea agreement that is outstanding in this case.

THE CHARGE

The defendant, WILLIAM DALE NEWHOFF, JR., is charged in the indictment with felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) (Count I); and

possession of a stolen firearm, in violation of 18 U.S.C. § 922(j) (Count II), on or about and between July 4 and July 6, 2007, in Missoula County, Montana.

PLEA AGREEMENT

Newhoff will plead guilty to count I of the indictment.

ELEMENTS

In order for the defendant to be found guilty of the charge in count I of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

- First, the defendant knowingly possessed one or more firearms;
- Second, the firearms were shipped or transported from one state to another or from a foreign country to the United States; and
- Third, at the time the defendant possessed the firearms, the defendant had been convicted of a crime punishable by a term of imprisonment exceeding one year.

ANTICIPATED EVIDENCE

If this case was tried in United States District Court, the United States would present the following evidence:

1. About July 4, 2007, William Dale Newhoff, Jr. and another individual burglarized a Missoula area residence. Newhoff took a Bryco Arms .22 caliber pistol among other household items. Newhoff attempted to sell the stolen pistol on July 5 and 6, 2007, in Missoula, Montana. Numerous associates of Newhoff would testify regarding his possession of the pistol and attempts to sell the pistol on July 5 and 6.

2. On July 6, 2007, Newhoff was pulled over for speeding. During a consent search of a purse belonging to another occupant of the vehicle, the pistol was located. Newhoff passed the pistol to the other occupant and told her to hide it in her purse. At the time, Newhoff was a convicted felon was under Montana Probation and Parole felony supervision.
3. Newhoff's felony convictions were confirmed through a certified copy of a Judgment dated and filed June 6, 2002, from the Montana Fourth Judicial District Court, Missoula County, for William Dale Newhoff, in case number DC-01-335 for two counts of felony theft and one count of felony forgery. Officers from Montana Probation and Parole would identify Newhoff as a person under felony supervision. They would also testify that Newhoff previously signed his conditions of felony supervision forms and the firearms regulation form provided by their office.
4. A special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives would testify that the firearm in this case was manufactured outside the State of Montana; therefore, the firearm traveled in interstate or foreign commerce prior to the defendant's possession of it. The firearm in this case is a Bryco Arms .22 caliber pistol, serial number 692060.

Respectfully submitted this 20th day of October, 2008.

WILLIAM W. MERCER
United States Attorney

/s/ Paulette L. Stewart
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